



**BILLING CODE: 4810-02**

## **DEPARTMENT OF THE TREASURY**

### **Financial Crimes Enforcement Network**

#### **Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Beneficial Ownership Requirements for Legal Entity Customers**

**AGENCY:** Financial Crimes Enforcement Network (“FinCEN”), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on the proposed renewal, without change, to a currently approved information collection relating to beneficial ownership requirements for legal entity customers of covered financial institutions. Under Bank Secrecy Act regulations, covered financial institutions are required to collect, and to maintain records of, the information used to identify and verify the identity of the names of the beneficial owners of their legal entity customers, subject to certain exclusions and exemptions. This request for comment is made pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

**ADDRESSES:** Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2019-0007 and the specific Office of Management and Budget (“OMB”) control number 1506-0070.

• Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2019-0007 and OMB control number 1506-0070.

Please submit comments by one method only. Comments will also be incorporated into FinCEN's retrospective regulatory review process, as mandated by Executive Orders 12866 and 13563. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at 1-800-767-2825 or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

**SUPPLEMENTARY INFORMATION:**

I. Statutory and Regulatory Provisions

FinCEN exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act of 2001 and other legislation. This legislative framework is commonly referred to as the “Bank Secrecy Act” (“BSA”).<sup>1</sup> The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.<sup>2</sup> Pursuant to this authority, FinCEN may issue regulations requiring financial institutions to keep records and file reports that “have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.”<sup>3</sup>

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<sup>1</sup> The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332 and notes thereto, with implementing regulations at 31 CFR Chapter X. *See* 31 CFR 1010.100(e).

<sup>2</sup> Treasury Order 180-01 (Jul. 1, 2014).

<sup>3</sup> 31 U.S.C. 5311.

Additionally, FinCEN is authorized to impose regulations to maintain procedures to ensure compliance with the BSA and FinCEN's implementing regulations, and to guard against money laundering, which includes imposing on financial institutions customer due diligence requirements within the anti-money laundering ("AML") program requirements.<sup>4</sup>

Under 31 CFR 1010.230 covered financial institutions<sup>5</sup> are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of new accounts opened by legal entity customers and to include such procedures in their AML programs. Covered financial institutions may obtain the required identifying information by either obtaining a prescribed certification form from the individual opening the account on behalf of a legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies the accuracy of the information. Covered financial institutions must also maintain a record of the identifying information obtained, and a description of any document relied on, of any non-documentary methods and results of any measures undertaken, and the resolutions of substantive discrepancies.

These requirements will assist law enforcement in financial investigations, advance counterterrorism and broader national security interests, improve financial institutions' ability to assess and mitigate risk, help prevent evasion of targeted financial sanctions, facilitate tax compliance, enhance financial transparency of legal entities, and advance U.S. compliance with international standards and commitments.

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<sup>4</sup> 31 U.S.C. 5318(a) and (h).

<sup>5</sup> Covered financial institutions include banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities. *See* 31 CFR 1010.230(f) and 31 CFR 1010.605(e)(1).

## II. Paperwork Reduction Act (“PRA”)<sup>6</sup>

Title: 31 CFR 1010.230- Beneficial Ownership Requirements for Legal Entity Customers.

OMB Control Number: 1506-0070.

Form Number: Appendix A to § 1010.230 – Certification Regarding Beneficial Owners of Legal Entity Customers.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the regulations contained in 31 CFR 1010.230 that require covered financial institutions to collect, and to maintain records of, the information used to identify and verify the identity of the names of the beneficial owners of their legal entity customers.

Type of Review: Renewal without change of a currently approved information collection.

Affected Public: Business and other for-profit institutions and non-profit institutions.

Frequency: As required.

### Burden:

a. Update and maintain beneficial ownership identification procedures: 20 minutes.<sup>7</sup>

b. Customer identification, verification, and review and recordkeeping of the beneficial ownership information: A range of 20 to 40 minutes per legal entity customer (an average of 30 minutes per legal entity customer).

Estimated Number of Respondents: 23,615.<sup>8</sup>

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<sup>6</sup> Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A).

<sup>7</sup> The final rule recognized a burden of 56 hours to develop the initial procedures (40 hours for small entities). (*See* 81 FR 29398, May 11, 2016). Once procedures are developed, an annual burden of 20 minutes is recognized for revisions to and maintenance of such procedures. Covered financial institutions were required to comply with this rule by May 11, 2018, so no burden hours are included in this analysis for the initial development of procedure.

<sup>8</sup> The above Estimated Number of Respondents is based on sum of the following numbers:

- 5,358 banks [Federal Deposit Insurance Corporation, *Key Statistics* webpage, April 25, 2019];
- 5,375 federally-insured credit unions [National Credit Union Administration, *Quarterly Credit Union Data Summary*, December 31, 2018];
- 125 privately-insured credit unions [General Accountability Office, *PRIVATE DEPOSIT INSURANCE: Credit Unions Largely Complied with Disclosure Rules, but Rules Should Be Clarified*, March 2017];

Estimated Total Annual Responses: 8,855,625.<sup>9</sup>

Estimated Recordkeeping Burden: 4,435,685 hours.<sup>10</sup>

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

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- 1,130 introducing brokers [National Futures Association website, March 31, 2019];
  - 64 futures commission merchants [National Futures Association website, March 31, 2019];
  - 3,607 securities firms [Financial Industry Regulatory Authority website, December 31, 2018]; and,
  - 7,956 U.S. mutual funds [Investment Company Institute, *2018 Factbook*, 2018].

<sup>9</sup> Based on research conducted to publish the final rule in 2016, it is estimated that each covered financial institution will open, on average, 1.5 new legal entity accounts per business day. There are 250 business days per year. (23,615 financial institutions X 1.5 accounts per day X 250 business days per year = 8,855,625 new legal entity accounts opened per year).

<sup>10</sup> 8,855,625 new legal entity accounts X 30 minutes per account established ÷ 60 minutes per hour = 4,427,813 burden hours to identify and verify beneficial owners of new legal entity accounts per year. 20 minutes to update and maintain beneficial ownership identification and verification procedures within a financial institution's AML program multiplied by 23,615 covered financial institutions and divided by 60 minutes = 7,872 burden hours annually. The total annual burden hours estimate for this information collection is (4,427,813 + 7,872) 4,435,685.

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

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